

MEMORANDUM

December 5, 1962

TO: Boston Redevelopment Authority

FROM: Edward J. Logue - Development Administrator

SUBJECT: Opinion of Special Counsel re Tufts-New England
Medical Center Development Plan

At the Authority meeting on November 28 it was requested that an opinion of special counsel be obtained relating to the Tufts-New England Medical Center Development Plan. Attached is the text of such an opinion from the firm of Foley, Hoag & Eliot.

The two key provisions of the opinion are quoted below:

- (1) "In our view, approval of the Medical Center Development Plan does not restrict or curtail the Authority's legal power to prepare plans and to undertake a project in the South Cove Area."
- (2) "The approval of the Development Plan includes a finding that concorns to the general plan for the City as a whole, a finding which the Authority must, under the Housing Authority Law, make with respect to any urban renewal plan for the area. The Authority is not, however, precluded from adopting an urban renewal plan after it has completed its surveys and planning which conforms to the general plan for the City but which differs from the present Development Plan."

In my judgment the opinion makes it clear that the Authority is neither limited to the provisions of the Development Plan in the preparation of the South Cove Urban Renewal Plan, nor is the Authority bound to any of the specific provisions of the Development Plan as part of a future urban renewal project.

Attachment

Foley, Hoag & Eliot
10 Post Office Square
Boston 9, Massachusetts

December 3, 1962

Edward J. Logue, Esquire
Boston Redevelopment Authority
City Hall Annex
Boston, Massachusetts

Dear Mr. Logue:

I understand that Tufts-New England Medical Center has submitted a Development Plan for an area located within the proposed South Cove Project Area so that so-called Section 112 credits may become available, and you have asked our views as to whether or not approval of such Plan restricts the Authority's legal power to prepare surveys and plans, and to undertake an urban renewal project, for the South Cove Area, which differs from the proposed Development Plan.

Under Section 112 of the federal Housing Act of 1949, as amended, and the regulations of the Administrator of the Housing and Home Finance Agency, certain expenditures by educational institutions and hospitals, such as those comprising the Medical Center, for the acquisition of real property may be eligible as non-cash local grants-in-aid for projects being undertaken by the Authority, provided that the property is to be redeveloped or rehabilitated for educational or hospital uses in accordance with an approved urban renewal plan (if the property is located within the urban renewal project area) or in accordance with an approved development plan proposed by the institutions (if the property is located outside the project area). In the absence of an urban renewal plan for the South Cove Area, certain expenditures made, and to be made, by the Medical Center institutions could not result in an eligible Section 112 credit unless an acceptable development plan should be approved.

The Medical Center Development Plan indicates the educational and hospital activities of the institutions involved and their past growth and anticipated future development. In addition, the Plan states the general goals of the institutions for the development of the area as well as certain specific development concepts presently contemplated. However, the Plan expressly acknowledges that additional planning and urban renewal action are both contemplated and required. In fact, the Survey and Planning Application

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of the Authority for an advance of federal funds for planning purposes is incorporated in the Plan, which states that it has been prepared on a basis that is flexible enough to permit changes and refinements within the context of urban renewal.

The Authority is legally empowered under the Housing Authority Law to determine what areas within the City of Boston constitute substandard, decadent, or blighted open areas, to conduct surveys of and prepare plans for such areas, and, subject to making certain findings and obtaining certain other approvals as provided in the statute, to undertake land assembly and redevelopment projects and urban renewal projects within such areas. In our view, approval of the Medical Center Development Plan does not restrict or curtail the Authority's legal power to prepare plans and to undertake a project in the South Cove Area.

In preparing an urban renewal plan for the area, the Authority presumably will take into account the relevant conditions and factors in the area as they exist at the time. The existence of the Medical Center Development Plan and the actions, taken and proposed to be taken, thereunder would undoubtedly be included among such conditions and factors, although it may be observed that the institutions are not obligated to carry forward any of the provisions of the Plan.

The approval of the Development Plan includes a finding that it conforms to the general plan for the City as a whole, a finding which the Authority must, under the Housing Authority Law, make with respect to any urban renewal plan for the area. The Authority is not, however, precluded from adopting an urban renewal plan after it has completed its surveys and planning which conforms to the general plan for the City but which differs from the present Development Plan.

Very truly yours,

Lewis H. Weinstein

